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राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 16 फरवरी, 1974/27 माघ, 1895

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATIONS

Simla-2, the 11th February, 1974

No. 5-4/73-LR.—The Cattle Trespass (Himachal Pradesh Amendment) Bill, 1973 (Bill No. 9 of 1973) after having received the assent of the Governor, Himachal Pradesh, on the 7th February, 1974, under Article

200 of the Constitution of India, is hereby published in the Rajpatra,
Himachal Pradesh, as Act No. 7 of 1974.

JOSEPH DINA NATH,
Deputy Secretary.

Act No. 7 of 1974.

**THE CATTLE TRESPASS (HIMACHAL PRADESH AMENDMENT)
ACT, 1973**

AN
ACT

to amend the Cattle Trespass Act, 1871 (Act No. 1 of 1871) in its application to Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Cattle Trespass (Himachal Pradesh Amendment) Act, 1973.

Short title,
extent and
commencement.

(2) It shall extend to the whole of Himachal Pradesh.

(3) It shall come into force at once.

1 of 1871
2. In section 3 of the Cattle Trespass Act, 1871 (hereinafter referred to as the principal Act), after the word "cattle" the words "does not include such bulls as are let loose for stud purposes and are specified by a notification in the Official Gazette in this behalf but" shall be inserted.

Amendment
of section
3.

3. In section 10 of the principal Act, after the words "or any part thereof," the words "or any person authorised in this behalf, either by name or by virtue of office, by Government" shall be inserted.

Amendment
of section
10.

4. In section 14 of the principal Act, for the word "seven" where it occurs for the first time, the word "three" and where it occurs for the second time, the word "four" shall be substituted.

Amendment
of section
14.

5. After section 14 of the principal Act, the following section shall be inserted, namely:—

Insertion of
section
14-A.

"14-A. Procedure for speedy disposal of certain unclaimed cattle.—
Notwithstanding anything contained in section 14 where any unattached calf, kid or lamb or any decrepit, weak or maimed cattle is impounded, the poundkeeper shall report the fact to the officer specified in that section within twenty-four hours of the impounding and such officer shall, within twenty-four hours of such report and if such unattached calf, kid or lamb or cattle has not been claimed within twenty-four hours of its impounding cause them to be disposed of by auction or otherwise after a proclamation of its disposal has been made by beat of drum in the village and at the market place nearest to the place of seizure and in such other manner as may be prescribed:

Provided that if in the opinion of the Magistrate of the district the disposal of any such unattached calf, kid or lamb or cattle is not likely to fetch a fair price, he may send such cattle to any gosadan or pinjrapole.

Explanation.—For the purpose of this section the expression—

(a) "Gosadan" or "Pinjrapole" means a place or an institution where old, decrepit, wounded or otherwise non-productive or

useless cattle are kept for the purpose of maintenance and not for any commercial purpose, whether such place or institution is managed by Government or by a private society or person; and

- (b) "unattached calf, kid or lamb" means a calf, kid or lamb not attached to its mother.

Amendment of section 17. 6. In section 17 of the principal Act, the words after the word "deposit" shall be omitted and shall be substituted with the following words, namely:—

"and, if no claim thereto is preferred within six months from the date of deposit or, if such claim having been preferred within this period is not established, such proceeds shall stand forfeited to the Government."

Amendment of section 26. 7. Section 26 of the principal Act shall be renumbered as sub-section (1) and thereafter the following new sub-section shall be added, namely:—

- (2) While convicting such person, the Magistrate may also—
 (a) require him to pay to the person whose land, crop or produce has been damaged such compensation, not exceeding two hundred and fifty rupees, as may be considered reasonable, and
 (b) order that the cattle in respect of which the offence has been committed shall, in addition to any other penalty imposed, be forfeited to the Government.”.

Repeal and savings. 8. The Cattle Trespass (Punjab Amendment) Act, 1952 and the Cattle Trespass (Punjab Amendment) Act, 1959 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 are hereby repealed:

Provided that anything done or any action taken in exercise of the powers conferred by or under the provisions of the Acts so repealed shall to the extent of their being consistent with the provisions of this Act be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done or action taken.

Simla-2, the 11 February, 1974

No. 6-35/69-LR.—The Himachal Pradesh Factories (Control of Dismantling) Bill, 1973 (Bill No. 8 of 1973) after having received the assent of the Governor, Himachal Pradesh, on the 5th February, 1974, under Article 200 of the Constitution of India, is hereby published in the Rajpatra, Himachal Pradesh, as Act No. 6 of 1974.

JOSEPH DINA NATH,
Deputy Secretary.

Act No. 6 of 1974

THE HIMACHAL PRADESH FACTORIES (CONTROL OF DISMANTLING) ACT, 1973

AN

ACT

to control the dismantling of Factories in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Factories (Control of Dismantling) Act, 1973.

Short title,
extent and
commencement.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions

(a) "to dismantle" a factory means to remove from its position the machinery or part of the machinery of the factory, whereby such removal the factory is rendered wholly or partly useless for its purposes; but does not include any temporary removal within the premises of the factory of the machinery or part of the machinery for purposes such as adjustment, cleaning and repairs;

(b) "factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948, and includes a small scale industry unit with a capital investment of not more than seven lakhs and fifty thousand rupees irrespective of the number of persons employed.

63 of 1948

Explanation.—In this clause, 'Capital Investment' means investment in plant and machinery only;

63 of 1948

(c) "machinery" has the meaning assigned to that word in clause (j) of section 2 of the Factories Act, 1948;

(d) "notification" means a notification published under proper authority in the Rajpatra, Himachal Pradesh; and

(e) "State Government" means the Government of Himachal Pradesh.

3. (1) No person shall, without the written permission of the State Government or of an officer authorised in this behalf by that Government, dismantle any factory or remove from a factory any spare parts kept for maintaining the machinery of the factory in order.

Dismantling
a factory.

(2) Whoever contravenes any of the provisions of sub-section (1) shall be punished with imprisonment for a term which may extend to two years, or with fine or with both.

4. If the person contravening any of the provisions of sub-section (1) of section 3 is a company or other corporate body, every director, manager or secretary or other officer or agent thereof, shall, unless he proves that the contravention took place without his knowledge or that he exercised all due

Offences by
corporation.

diligence to prevent such contravention, be deemed to be guilty of such contravention.

Powers of entry, examination, taking evidence, etc.

5. (1) Subject to any rules made by the State Government, any officer authorised in this behalf by that Government may, if he has reason to believe that any person, has contravened any of the provisions of sub-section (1) of section 3 within the local limits for which he is so authorised,—

- (a) enter with such assistance (if any), being persons in the service of the State Government, as he thinks fit, any place;
- (b) make such examination of the place and of any machinery, books or documents therein and take on the spot or elsewhere such evidence of any persons as he may deem necessary for carrying out the purposes of this Act; and
- (c) exercise such other powers as may be necessary for carrying out the purposes of this Act:

Provided that no one shall be required under this section to answer any question or give any evidence tending to incriminate himself.

(2) Whoever wilfully obstructs an officer authorised under sub-section (1) in the exercise of any power conferred by that sub-section, or fails to produce on demand any book or documents in his custody or to comply with any demand for information or knowingly or recklessly makes to such officer a statement false in any material particular shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

Cognizance of offences.

6. No prosecution for any offence under this Act shall be instituted except by or with the previous sanction of the State Government or the officer authorised by the State Government for the purposes of sub-section (1) of section 3.

Bar of legal proceedings.

7. No suit, prosecution, or other legal proceedings shall lie against the State Government, or any officer for anything which is in good faith done, or intended to be done, under this Act.

Power to make rules.

8. (1) The State Government may, by notification make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide—

- (a) the procedure for the grant of the permission referred to in sub-section (1) of section (3);
- (b) for an appeal against refusal to grant the permission referred to in sub-section (1) of section 3 when such refusal is by an officer, authorised in pursuance of that section; and
- (c) for regulating the manner in which officers authorised under sub-section (1) of section 5 shall exercise their powers.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the

rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

20 of 1948

31 of 1966

9. The East Punjab Factories (Control of Dismantling) Act, 1948 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, is hereby repealed:

Repeal and savings.

Provided that anything done, any action taken or any proceedings commenced in exercise of the powers conferred by or under the said Act shall be deemed to have been done, taken or commenced under the corresponding provisions of this Act.

उप-नियन्त्रक, मुद्रण तथा लेखन-सामग्री, हिमाचल प्रदेश, शिमला-३ द्वारा मुद्रित तथा प्रकाशित ।